

Serial No. 09/752,112

- 2 -

Art Unit: 2126

Rejections Under 35 U.S.C. §103

Claims 1-6, 8-16 and 18-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Moore et al. (U.S. 6,408,342).

Moore describes Decision logic, at column 19, lines 37-55 as follows:

“...Quality of Service ... The apply{character pullout} call may receive a CallInfo argument or an argument which refers to a CallInfo object. A CallInfo is an object (or a reference to an object) that is a collection of Quality of Service (QoS) parameters. Examples of such parameters include performance characteristics (e.g., throughput, latency), rebinding policy, payment mechanism, security policy, quality of protection (e.g., encryption, privacy, authentication, authorization lists), and concurrency policy.

Both the caller and callee may manipulate the CallInfo argument. For example the initiating process may set a performance metric requirement. In response to such a request, the callee process may provide a CallInfo parameter indicating its performance capabilities.

CallInfo is an extensible list of QoS parameters. One example of its use is where a client wishes to indicate to the server the maximum amount of time the server should take to complete a request (this is often called a server deadline). The client application can indicate a maximum timeout for the RPC\_Client 311 and a maximum deadline (for the RPC\_Server).

...The Stub object 303 contains a decision logic for determining which protocol to use in accessing the target object of a remote method invocation. In the alternative embodiment where the Stub 303 creates a Request object, the Request object contains the decision logic. In initiating a call, the Stub 303 may put in a request for a particular QoS requirement. *An RPC\_Transport 305 asserts to the Stub 303 which QoS level it can meet (for each QoS parameter it understands).*

*The decision logic uses the tag--value pair profiles to select a protocol with which it can connect to the target object associated with the ObjectReference 501 specified as the first argument in the apply{character pullout} call.* If the target object is accessible over multiple protocols (i.e., both the client and the server support more than one protocol in common), the protocol with the matching the Quality of Service (QoS) required by the Stub 303 is selected...” (Emphasis added by Applicant)

The Examiner states, at pages 3-4 of the final Office Action: “...

While teaching a quality of service level to the detected connection in accordance with the flow information, Moore does not explicitly teach associating a quality of service level to the detected connection in accordance with the flow information.... Moore discloses “In initiating a call, the stub 303 may put in a request for a particular QoS requirement... the protocol with the matching

Serial No. 09/752,112

- 3 -

Art Unit: 2126

QoS (QoS) required by the Stub 303 is selected...” ... It would have been obvious to one of ordinary skill in the art to have applied the teaching of Moore for “associating a quality of service level to the detected connection in accordance with the flow information” in order to provide the evolution of communications in the network system using remote procedure calls...”

No motivation for the modification suggested by the Examiner

It is well established that in order to support a rejection sufficient motivation for supporting the combination need be shown or suggested by the Examiner. The motivation proffered by the Examiner in the present case is “in order to provide evolution of communications in the network system...” Applicant’s submit that this motivation is insufficient to support a rejection under 35 U.S.C. §103.

It is well established that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Applicant’s submit that the Examiner’s reasoning falls within the realm of motivations deemed unacceptable by *Mills*, and accordingly submit that the rejection is improper and should be withdrawn.

Combination neither describes nor suggests the claimed invention

Claims 1-20:

Assuming, *arguendo*, that a motivation can be found for the modification suggested by the Examiner, Applicants submit that the modified reference still does not teach or suggest the limitations of the present claims.

Serial No. 09/752,112

- 4 -

Art Unit: 2126

For example, claim 1 includes the steps of "...using a side channel to communicate flow information associated with the detected connection to a classifying router, *the flow information including a port number associated with the communication*; and incorporating the flow information into a differentiated services classification subsystem of the classifying router *by associating a quality of service level to the detected connection in accordance with the flow information..*"

In Moore describes a system of negotiated 'QoS', whereby 'Both the caller and callee may manipulate the CallInfo', where 'Callinfo is an object ... that is a collection of QoS parameters...' (Moore, column 19). In Moore, although the Stub 303 puts in a request for a particular QoS, the RPC\_Transport 305 asserts to the Stub 303 which QoS level it can meet. The portion of the specification provided by the Examine illustrates that the Stub then chooses a protocol according to the QoS that is made available by the server. Such a construct is different from that recited in the claims of the present invention, where the QoS for a flow is based on the flow information from the client.

Accordingly, for at least this reason, claim 1 is patentably distinct over Moore, and the rejection should be withdrawn. Independent claim 11 includes similar limitations, and is patentable for reasons similar to those put forth with regard to claim 1.

Dependent claims 2-10 and 12-20 serve to add further patentable limitations to their parent independent claims, and are allowable for at least the reasons put forth with regard to the parent claims. However, each claim also includes limitations that are patentably distinct over Moore.

Serial No. 09/752,112

- 5 -

Art Unit: 2126

Claims 6, 8:

For example, Applicant's claims 6 and 8 each recite "...wherein the flow information includes a five-tuple including sender and receiver Media Access Control (MAC) and Internet Protocol (IP) addresses, sender and receiver MAC and IP port numbers, and Transmission Control Protocol (TCP) protocol type for the connection...." Although the Examiner states, at page 4 of the Office Action that Moore 'teaches MAC and IP addresses ... and MAC and IP port numbers ... and TCP protocol type...' Applicants note that these elements are not disclosed in Moore in the same arrangement as they are recited in the claims. Rather, Applicant's note that claim 6 depends from claim 1, wherein the forwarding information is incorporated "...into a differentiated services classification subsystem of the classifying router by associating a quality of service level to the detected connection in accordance with the flow information..." No such structure is shown or suggested in Moore. Accordingly, for this additional reason claims 6 and 8 are patentably distinct over Moore, and the rejection should be withdrawn.

Claims 7 and 14:

Claims 7 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Moore in view of Aharoni et al. (U.S. 6,014,694). However, Applicant's notice that the Examiner refers, in the text of the rejection, to U.S. patent 6,412,000. Aharoni is not cited in any IDS or record in this application, so Applicant will assume that a typographical error has occurred, and that the Examiner means to indicate that claims 7 and 14 are rejected under 35 U.S.C. §103 as being unpatentable over Moore in view of Riddle.

Serial No. 09/752,112

- 6 -

Art Unit: 2126

Riddle describes, in a packet communication environment, a method is provided for automatically classifying packet flows for use in allocating bandwidth resources by a rule of assignment of a service level. The method comprises applying individual instances of traffic classification paradigms to packet network flows based on selectable information obtained from a plurality of layers of a multi-layered communication protocol in order to define a characteristic class, then mapping the flow to the defined traffic class. It is useful to note that the automatic classification is sufficiently robust to classify a complete enumeration of the possible traffic.

Accordingly, Riddle describes an entirely different method of packet classification, where classes are automatically assigned service levels. Accordingly, the combination of Riddle with Moore fails to overcome the previously described inadequacies of the references.

Serial No. 09/752,112

- 7 -

Art Unit: 2126

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Lindsay G. McGuinness, Applicants' Attorney at 978-264-6664 so that such issues may be resolved as expeditiously as possible.

For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lindsay G. McGuinness, Reg. No. 38,549  
Attorney/Agent for Applicant(s)  
Steubing McGuinness & Manaras LLP  
125 Nagog Park Drive  
Acton, MA 01720  
(978) 264-6664

Docket No. 120-080  
Dd: 7/19/2004